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*Attorneys for Defendant  
Sam's West, Inc.*

**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

SHEILA HIX, individually,

Plaintiff,

v.

SAM'S WEST, INC., a foreign corporation, dba  
Sam's Club; DOE EMPLOYEES I-X; and ROE  
CORPORATIONS I-X, inclusive,

Defendants.

Case No.:

**PETITION FOR REMOVAL OF CIVIL  
ACTION BY DEFENDANT SAM'S WEST,  
INC.**

**[JURY DEMAND]**

COMES NOW Petitioner SAM'S WEST, INC. (hereinafter "Defendant" or "Sam's"), by and through their attorneys, the law offices of PHILLIPS, SPALLAS & ANGSTADT, LLC, and hereby submit and respectfully show:

I.

Petitioner WALMART, INC. is a Defendant in the above-entitled action.

II.

The above-entitled action was commenced by Plaintiff SHEILA HIX (hereinafter "Plaintiff") on October 11, 2020, in the Eighth Judicial District in and for Clark County, State of Nevada. Plaintiffs served a summons and copy of their operative Complaint on Walmart on October 13, 2020. True and

1 correct copies of Plaintiff's Complaint and Summons are attached hereto as **Exhibits "A" and "B"**,  
2 respectively. Defendant filed an Answer on November 2, 2020. A true and correct copy of Defendant's  
3 Answer is attached hereto as **Exhibit "C"**. On November 30, 2020, Plaintiff filed a Petition for  
4 Exemption from Arbitration (the "Petition for Exemption") in which on page 2 past medical damages  
5 are listed totaling \$67,935.00. A true and accurate copy of Plaintiff's Petition for Exemption is attached  
6 hereto as **Exhibit "D"**. The Petition goes on to state that these damages "are not representing the entirety  
7 of the medical specials."

8 III..

9 This Petition is timely filed pursuant to 28 U.S.C. § 1446(b).

10 IV.

11 This is a civil action over which this Court has jurisdiction pursuant to 28 U.S.C. § 1332(a), and  
12 is one which may be removed to this Court by Petitioner, pursuant to 28 U.S.C. § 1441(a).  
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14 V.

15 Petitioner is informed, believes, and thereon alleges that Plaintiff Sheila Hix is, and was at the  
16 time this action was commenced, a citizen of the State of Nevada.

17 VI.

18 Petitioner Sam's West, Inc., is, and was at the time this action was commenced, a Delaware  
19 corporation with its principal place of business in the State of Arkansas, and therefore a citizen of the  
20 State of Delaware and a citizen of the State of Arkansas.  
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22 VII.

23 The above-entitled civil action is for personal and economic damages Plaintiff allegedly incurred  
24 from an incident at a Sam's Club in Las Vegas, Nevada.

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## VIII.

A copy of Defendant's Petition For Removal Of Civil Action, seeking removal of the above-entitled action to the United States District Court, District of Nevada, together with a copy of the Summons and Complaint, have been deposited with the Deputy Clerk in the County Clerk's office for the Eighth Judicial District Court in and for Clark County, Nevada.

## IX.

True and correct copies of all pleadings and papers served upon Petitioner in the above-entitled action are filed herewith.

## X.

This Petition is filed with the Court within thirty (30) days after Petitioner first learned that Plaintiff is seeking reimbursement of medical expenses totaling in excess of of \$67,935.00, as is evidenced on p. 2 of Plaintiff's Petition for Exemption (Exhibit "D"). This is without considering the additional past medical damages mentioned therein, nor any future medical damages requested by Plaintiff. It also does not include special damages, which Plaintiff states on p. 7 of her Complaint (Exhibit "A") that she is requesting in an amount "in excess of \$15,000.00." Plaintiff is thus clearly seeking over \$75,000 in total damages, and Plaintiff's Petition for Exemption is the "first paper" referencing the fact that Plaintiff is seeking damages that clearly exceed the \$75,000.00 federal diversity jurisdiction threshold.

## XI.

Plaintiff's claims for damages, as well as the complete diversity of the parties, meet the requisite requirements set forth by 28 U.S.C. §1441(b) and 29 U.S.C. §1332.

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**PRAYER**

WHEREFORE, Defendant prays that the above-entitled action be removed from the Eighth Judicial District Court in and for Clark County, Nevada, to this Court.

DATED this 15th day of December, 2020.

**PHILLIPS, SPALLAS & ANGSTADT LLC**

*/s/ Daniel E. Joslyn*

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DANIEL E. JOSLYN, ESQ.

Nevada Bar No.14725

504 South Ninth Street

Las Vegas, Nevada 89101

*Attorneys for Defendant*

*Walmart Inc.*

**DECLARATION OF DANIEL E. JOSLYN**

STATE OF NEVADA )  
 ) ss.  
 COUNTY OF CLARK )

I, DANIEL E. JOSLYN, declare under penalty of perjury that the foregoing is true and correct:

1. I am an attorney, duly licensed and authorized to practice law within the courts of the State of Nevada.

2. I am an attorney in the law firm of PHILLIPS, SPALLAS & ANGSTADT LLC, representing Petitioner Sam's West, Inc. in the case of *Sheila Hix v. Sam's West, Inc.*, pending in the Clark County District Court, Case No. A-20-822793-C, filed in Department No. IX, of the Eighth Judicial District Court, in and for Clark County, Nevada. True and correct copies of Plaintiff's Complaint and Summons are attached hereto as Exhibit A and Exhibit B, respectively. I have prepared and read the foregoing Petition for Removal of Civil Action and know the matters set forth to be true and correct to the best of my knowledge and belief.

3. The above-entitled action was commenced on October 11, 2020, in the Eighth Judicial District Court in and for Clark County, Nevada, and is now pending in that Court. Defendant filed its Answer on November 1, 2020. A true and correct copy of Defendant's Answer is attached hereto as Exhibit C. On November 30, 2020, Plaintiff filed a Petition for Exemption from Arbitration in which it was stated that she is seeking past medical damages totaling \$67,935.00 for alleged injuries allegedly sustained at a Sam's Club store in Las Vegas, Nevada. A true and correct copy of Plaintiff's Petition for Exemption is attached hereto as Exhibit D.

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4. On December 11, 2020, I caused to be filed with the County Clerk of the Eighth Judicial District Court, in and for Clark County, Nevada, a Notice of Removal to Federal Court, seeking removal of the above-mentioned action to the United States District Court, District of Nevada, together with a true and correct copy of this Petition for Removal of Civil Action, by depositing such copy with the Deputy Clerk in the County Clerk's Office, Clark County Courthouse, 200 Lewis Avenue, Las Vegas, Nevada 89101.

5. This Petition is filed with this Court within thirty (30) days after being served with Plaintiff's Petition for Exemption which is the "first paper" from which the amount in controversy may be ascertained in the above-entitled action. See 28 U.S.C. §1446(b). Plaintiff's Petition for Exemption indicates they are seeking a total past medical damages award of at least \$67,935.00 for alleged injuries allegedly sustained at a Sam's Club store in Las Vegas, Nevada. This figure does not include future medical damages, nor special damages, which Plaintiff states on p. 7 of her Complaint that she is seeking "in excess of \$15,000." Therefore, Plaintiff's claimed damages exceed the jurisdiction requirement. See Ex. D; 28 U.S.C. §1332(a); *Singer v. State Farm Mut. Auto Ins. Co.*, 116 F.3d 373, 377 (9<sup>th</sup> Cir. 1997) (holding the "court may consider facts in a removal petition and may require parties to submit summary-judgment-type evidence" to determine the amount in controversy).

6. I caused to be served copies of the Notice of Removal to Federal Court and the Petition For Removal Of Civil Action upon Plaintiff by depositing them in the United States Mail, on December 15, 2020, in an envelope properly addressed, with sufficient postage affixed, to:

MICHAEL A. KRISTOF, ESQ.  
KRISTOF LAW GROUP  
9960 W. Cheyenne Ave, Suite 170  
Las Vegas, NV 89129

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1 I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is  
2 true and correct.

3 Executed this 15th day of December, 2020.  
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6 **PHILLIPS, SPALLAS & ANGSTADT, LLC**

7 */s/ Daniel E. Joslyn*  
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9 DANIEL E. JOSLYN  
10 Nevada Bar No. 14725  
11 504 South Ninth Street  
12 Las Vegas, Nevada 89101  
13 (702) 938-1510

14 *Attorneys for Defendant*  
15 *Sam's West, Inc.*  
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**CERTIFICATE OF SERVICE**

I hereby certify that on the 15th day of December, 2020, I served a true and correct copy of the foregoing, **PETITION FOR REMOVAL OF CIVIL ACTION BY DEFENDANT SAM'S WEST, INC.**, as follows:

☐ By facsimile addressed to the following counsel of record, at the address listed below:

☐ By placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada;

☐ By Hand Delivery (ROC); and/or

☒ By Electronic Filing/Service Notification through Odyssey File & Serve to:

ATTORNEY OF RECORD	TELEPHONE/FAX	PARTY
MICHAEL A. KRISTOF, ESQ. Nevada Bar No. 07780 KRISTOF LAW GROUP 9960 W. Cheyenne Ave, Ste. 170 Las Vegas, NV 89129	702-703-2838 702-846-0818 (Fax)	Plaintiff

*/s/ Luzandra Aguilar*

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An Employee of PHILLIPS, SPALLAS & ANGSTADT, LLC